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AN ACT

RELATING TO LOCAL GOVERNMENT; DELINEATING THE POWERS AND
DUTIES OF THE ALBUQUERQUE-BERNALILLO COUNTY WATER UTILITY
AUTHORITY; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-1-10 NMSA 1978 (being Laws 2003,
Chapter 437, Section 1) is amended to read:

"72-1-10. WATER UTILITY AUTHORITY--CREATED--
MEMBERSHIP--ADMINISTRATION OF UTILITY.--

A. The "Albuquerque-Bernalillo county water
utility authority" is created. The membership of the board
of directors of the authority shall consist of seven members.
The municipal members shall be the mayor and three city
councilors appointed by the Albuquerque city council. The
county members shall be three county commissioners appointed
by the Bernalillo county board of county commissioners. A
city councilor member shall designate another city councilor
to serve in the member's absence. A county commissioner
member shall designate another county commissioner to serve
in the member's absence. The mayor shall designate the chief
executive officer of the municipality, a city councilor or a
county commissioner to serve in the mayor's absence. City
councilors shall serve one-year terms at the city council
president's discretion. County commissioners shall serve

1 one-year terms at the county commission chairman's
2 discretion. The authority is subject to the state
3 Procurement Code and other applicable state laws. The
4 authority is a public body politic and corporate, separate
5 and apart from the city of Albuquerque and Bernalillo county.
6 The authority is a political subdivision of the state.

7 B. The authority:

8 (1) shall set policy and regulate, supervise
9 and administer the water and wastewater utility of
10 Albuquerque and Bernalillo county, including the
11 determination and imposition of rates for services;

12 (2) is granted all powers necessary and
13 appropriate to carry out and effectuate its public and
14 corporate purposes, including the authority to adopt
15 procedural rules; and

16 (3) is authorized to use city or county
17 procurement processes or to contract with the city or county
18 to further its public and corporate purposes.

19 C. The authority may acquire, maintain, contract
20 for, condemn or protect water and wastewater facilities. The
21 city of Albuquerque and Bernalillo county may delegate any
22 additional power or duty conferred by Sections 3-27-2 and
23 3-27-3 NMSA 1978 to the authority to exercise and administer.

24 D. In exercising its power to acquire, maintain,
25 contract for or condemn water and wastewater facilities, the

1 authority shall not act so as to physically isolate and make
2 nonviable any portion of the water or wastewater facilities,
3 within or outside of Bernalillo county.

4 E. The authority may adopt resolutions and rules
5 necessary to exert the power conferred by this section.

6 F. For the purposes of acquiring, maintaining,
7 contracting for, condemning or protecting water and
8 wastewater facilities, the jurisdiction of the authority
9 extends within and outside of the boundaries of Bernalillo
10 county to the territory physically occupied by the water and
11 wastewater facilities and to privately owned water and
12 wastewater facilities interconnected to the utility system.

13 The authority may:

14 (1) acquire, maintain, contract for or
15 condemn facilities for the collection, treatment and disposal
16 of wastewater;

17 (2) condemn private property for the
18 construction, maintenance and operation of wastewater
19 facilities; and

20 (3) acquire, maintain, contract for or
21 condemn for use as part of the utility system privately owned
22 water and wastewater facilities used for the collection,
23 treatment and disposal of wastewater of the authority or its
24 customers.

25 G. The authority is subject to:

1 (1) the limitations imposed by Section
2 72-1-9 NMSA 1978 regarding water rights obtained or water
3 rights condemned pursuant to a water development plan;

4 (2) the provisions of the Eminent Domain
5 Code; and

6 (3) the provisions of Chapter 72 NMSA 1978
7 regarding any change to the point of diversion or the place
8 or purpose of use of any water right to any place selected by
9 the authority in order to make the water available to the
10 authority.

11 H. The authority is liable to the condemnee
12 pursuant to the provisions of the Eminent Domain Code for the
13 value of a water right as well as the market value of real
14 property to which the water right is appurtenant if:

15 (1) the authority condemns water rights,
16 either within or outside of the boundaries of Bernalillo
17 county that are appurtenant to real property that has been in
18 active agricultural operation; and

19 (2) the condemnation of the water right by
20 the authority requires the permanent retirement from
21 agricultural operation of some or all of the real property to
22 which the water rights are appurtenant.

23 I. The authority is not subject to the
24 jurisdiction of or approval from the public regulation
25 commission. The authority is not subject to the provisions

1 of the Public Utility Act. The authority is granted a water
2 use planning period not to exceed forty years as set forth in
3 Section 72-1-9 NMSA 1978.

4 J. The city of Albuquerque or Bernalillo county
5 may, by ordinance or resolution, grant the authority a
6 franchise for the operation, construction and maintenance of
7 the utility system and for the use and rental of rights of
8 way in exchange for consideration.

9 K. The authority may issue utility system revenue
10 bonds and obligations pursuant to the Public Securities
11 Short-Term Interest Rate Act for acquiring real and personal
12 property needed for the utility system and for extending,
13 enlarging, renovating, repairing or otherwise improving water
14 facilities and wastewater facilities or for any combination
15 of these purposes. The authority may issue revenue
16 anticipation notes with maturities not exceeding thirteen
17 months upon terms approved by the board of directors. The
18 authority may pledge irrevocably net revenues from the
19 operation of the utility system for payment of the principal,
20 premiums and interest on the revenue bonds or other
21 obligations. It is unlawful to divert, use or expend money
22 received from the issuance of utility system revenue bonds
23 for any purpose other than the purpose for which the utility
24 system revenue bonds were issued. Obligations, including
25 bond anticipation notes, issued pursuant to the Public

1 Securities Short-Term Interest Rate Act shall be sold
2 pursuant to the terms of that act. Utility system revenue
3 bonds:

4 (1) may have interest, appreciated principal
5 value or any part thereof payable at intervals or at maturity
6 as the authority determines;

7 (2) may be subject to prior redemption at
8 the authority's option at such time and upon such terms and
9 conditions with or without the payment of a premium as
10 determined by the authority;

11 (3) may mature at any time not exceeding
12 fifty years after the date of issuance;

13 (4) may be serial in form and maturity or
14 may consist of one bond payable at one time or in
15 installments or may be in another form as determined by the
16 authority;

17 (5) shall be sold for cash at above or below
18 par and at a price that results in a net effective interest
19 rate that does not exceed the maximum permitted by the Public
20 Securities Act; and

21 (6) may be sold at a public or negotiated
22 sale.

23 L. The bonds authorized by the authority and their
24 income shall be exempt from all taxation by the state or its
25 political subdivisions.

1 M. The members of the board of directors of the
2 authority may adopt a resolution declaring the necessity for
3 the issuance of utility system revenue bonds or other
4 obligations and may authorize the issuance of utility system
5 revenue bonds or other obligations by an affirmative vote of
6 a majority of all members of the board of directors of the
7 authority. Utility revenue bonds and the resolution
8 authorizing their issuance shall not be subject to the
9 approval of the public regulation commission pursuant to
10 Section 3-23-3 NMSA 1978 or subject to voter approval
11 pursuant to Section 3-23-2 NMSA 1978.

12 N. Except for the purpose of refunding previous
13 utility system revenue bond issues, the authority may not
14 sell utility system revenue bonds payable from pledged
15 revenues after the expiration of three years from the date of
16 the resolution authorizing their issuance. Any period of
17 time during which a utility system revenue bond is in
18 litigation shall not count toward the determination of the
19 expiration date of that issue."

20 Section 2. TEMPORARY DIVISION.--All functions,
21 appropriations, money, records, equipment and other real and
22 personal property pertaining to the Albuquerque water and
23 wastewater utility not transferred pursuant to Section 72-1-10
24 NMSA 1978 prior to the effective date of this act shall be
25 transferred to the Albuquerque-Bernalillo county water utility

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